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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,045	03/19/2004	Ray Stratton Coffey JR.		6972

7590  
Ray S. Coffey, Jr.  
POB 70  
Craigsville, VA 24430

08/29/2005

EXAMINER

LEE, JONG SUK

ART UNIT PAPER NUMBER

3673

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/804,045

Applicant(s)

COFFEY, RAY STRATTON

Examiner

Jong-Suk (James) Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/6/04 & 4/14/05.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 4/14/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Receipt is acknowledged of a response filed April 14, 2005. It is noted that the amended/substitute specification and amended abstract were filed as mentioned on the response letter filed April 14, 2005.

With respect to claims filed April 14, 2005, these claims are identical to the amended claims (not entered) filed December 12, 2004 of the U.S. Application Serial No. 10/816,315 and therefore, it is understood that the claims were inadvertently filed within the present application when applicant filed the response.

Further, the substitute specification filed April 14, 2005 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: No new matter statement, for example, "No new matter has been added in the specification." is not mentioned in the letter and marked-up copy for the specification is not attached.

Accordingly, action on the merit for claims 1-3 filed July 6, 2004, which has been considered to be original claims in the present application, hereby follows.

Applicant must clarify the status of the claims, abstract and specification filed April 14, 2005 in the response/amendment to this Office Action.

***Drawings***

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 14, 2005 have NOT been approved by the examiner because these drawings have not been mentioned in the original specification filed July 6, 2004.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Tracy (US 4,824,287).

Tracy discloses a septic system comprising used tires (22) glued by chemical sealing or cement (24, see Fig. 2, col.4, lines 15-23) or fastened together with bolts or other fasteners (56, see Fig. 6) and covered at one or more ends with an end cap (28, 67) consisting of butyl rubber or other material/steel and further discloses the inherent method for converting used tires into a useful product by gluing or fastening them together with bolts or other fasteners, and fitting one or both ends with end caps if desired (see Figs. 1-9; col.3, lines 65-68; col.4, lines 1-68; col.5, lines 1-68; col.6, lines 1-56).

***Conclusion***

5. The prior art made of record is considered pertinent to applicant's disclosure. Other

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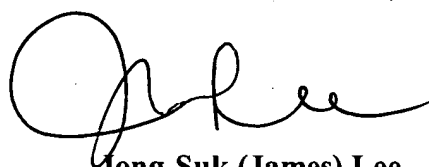
references disclose a biological waste water treatment system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (571) 272-7044. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/jjl  
August 25, 2005



Jong-Suk (James) Lee  
Primary Examiner  
AU 3673

**Attachment: i) APPLICANT'S RESPONSE**

**ii) Revised Amendment Practice final Rules Effective July 30, 2003**

**iii) Certificate of Mailing/Certification of Transmission**

**iv) Copies of 37 CFR 1.111-1.121; MPEP 608.01 (i); MPEP 608.01 (m)**

(Applicant may refer to APPLICANT'S RESPONSE as a guide for amendments to the specification and claims.)

## **APPLICANT'S RESPONSE**

The remainder of this Office Action consists of general information for the Applicant's benefit. Please see the enclosed copies of Title 37 of the Code of Federal Regulations, Sections 1.111-1.121 for details concerning the examination process and the requirements for the Applicant's response. Section 1.121 deal specifically with the subject of amendments to the specification, claims and drawings.

Unless the Office explicitly requests the return of a paper, all papers mailed to the Applicant are intended to be kept by the Applicant for his own records.

### **1. AMENDMENTS TO THE SPECIFICATION**

Any amendments to the specification must be presented as a list of additions and deletions, referring to the passages in question by page and line. No new matter may be entered.

It is not necessary to submit a new specification unless one has been required by the Examiner. An example of an amendment to the specification might appear as follows:

On page 16, line 12, change "effect" to --affect--.

On page 23, line 4, insert --bucket-- after "backhoe".

### **2. AMENDMENTS TO THE CLAIMS**

The enclosed copies of the Manual of Patent Examining Procedure, Sections 608.01(i) and 608.01(m) outline the proper format and content of the claims. For examples of the correct format, please see the claims in the enclosed patents.

Amendments to the claim(s) may also be presented in the above format. The amended claim(s) should be completely rewritten as a clean version in accordance with 37 CFR 1.121 (c)(1)(i), with a marked-up version of the amended claim(s) to 37 CFR 1.121 (c)(1)(ii). In the marked-up version, the additions to the claim should be underlined. Further, any deletions from a claim must be enclosed in brackets. No new matter may be entered.

As an example for a marked-up version, if a claim for a chair were originally written as follows:

1. A chair comprising a horizontal seat, a vertical back, and a plurality of vertical support members.

An amended marked-up version of this claim might then be written as follows:

1. (Amended) A chair comprising a horizontal seat, a vertical back, and [a plurality of] four vertical [support members] legs attached to said seat.

In this example, the words "a plurality of" and "support members" have been deleted from the claim. The words --four-- and --legs attached to said seat-- have been inserted.

If the specification or drawings originally described the inclusion of four legs on the chair, the new limitation of "four legs" in the claim would not constitute new matter.

### **3. ARGUMENTS**

If an Office Action contains a rejection or objection to the claims, the Applicant **MUST**

respond with arguments under the heading "Remarks", pointing out disagreements with the Examiner's contentions. The Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or patentably distinguish from them. The applicant must respond to every ground of rejection and objection set forth in the Office Action. For more details of the amendment process, the Applicant is referred to the attached photocopies of 37 CFR Rule 1.121.

#### **4. NEW MATTER**

As previously mentioned, no amendment to the specification, claims, or drawings may introduce new matter. "New matter" constitutes any material which meets the following criteria:

1. it is added to the disclosure (either the specification, the claims, or the drawings) after the filing date of the application, and
2. it contains new information which is neither included nor implied in the original version of the disclosure. This includes the addition of physical properties, new uses, etc.

Please see the enclosed copy of Title 37 of the Code of Federal Regulations, Section 1.121 for details of "new matter".

<b>REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003</b>
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All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 Fed. Reg. 38611 (June 30, 2003)), posted on the Office's website at: <http://www.uspto.gov/web/patents/ifw/> with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. **NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003).** The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period.

***Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.***

Note: The amendment practice for reissues and reexamination proceedings, except for drawings, has not changed.

### REVISED AMENDMENT PRACTICE

#### I. Begin each section of an amendment document on a separate sheet:

Each section of an amendment document (e.g., Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

#### II. Two versions of amended part(s) no longer required:

37 CFR 1.121 has been revised to no longer require two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for substitute specifications under 37 CFR 1.125 have been retained.

#### A) Amendments to the claims:

Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, must include a complete listing of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and the text of each pending claim (with markings to show current changes) must be presented. The claims in the listing will replace all prior claims in the application.

- (1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), (previously presented) and (not entered). The text of all pending claims, including withdrawn claims, must be submitted each time any claim is amended. Canceled and not entered claims must be indicated by only the claim number and status, without presenting the text of the claims.
- (2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., [[zero]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as). An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.
- (3) The text of pending claims not being currently amended, including withdrawn claims, must be presented in the claim listing in clean version, i.e., without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.



- (4) A claim being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional.
- (5) Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined.
- (6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (e.g., Claims 1 – 5 (canceled)).

**Example of listing of claims (use of the word "claim" before the claim number is optional):**

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a green blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

**B) Amendments to the specification:**

Amendments to the specification, including the abstract, must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or sections, including a new abstract (instead of a replacement abstract), must not be underlined. A replacement or new abstract must be submitted on a separate sheet, 37 CFR 1.72. If a substitute specification is being submitted to incorporate extensive amendments, both a clean version (which will be entered) and a marked up version must be submitted as per 37 CFR 1.125.

The changes in any replacement paragraph or section, or substitute specification must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as)

**C) Amendments to drawing figures:**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, and may be accompanied by a marked-up copy of one or more of the figures being amended, with annotations. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. Any marked-up (annotated) copy showing changes must be labeled "Annotated Marked-up Drawings" and accompany the replacement sheet in the amendment (e.g., as an appendix). The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to: Elizabeth Dougherty or Gena Jones, Legal Advisors, or Joe Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, by e-mail to [patentpractice@uspto.gov](mailto:patentpractice@uspto.gov) or by phone at (703) 305-1616.

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

#### CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on (date).

(Typed or printed name of the person signing this certificate)

(signature)

#### CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)\_\_\_\_-\_\_\_\_ on (date).

(Typed or printed name of the person signing this certificate)

(signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted. For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee. In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally signed** Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

**NOTICE TO APPLICANT:** In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.